

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

JAMES WILLIAM STEWART,

Defendant and Appellant.

D053193

(Super. Ct. No. SCD212646)

APPEAL from a judgment of the Superior Court of San Diego County, John M. Thompson, Judge. Affirmed.

James William Stewart entered a negotiated guilty plea to possession of a controlled substance (Health & Saf. Code, § 11351) as a lesser included offense to importing a controlled substance. Stewart also admitted he served a prior prison term (Pen. Code, § 667.5, subd. (b)) and had a prior serious/violent felony or strike conviction (Pen. Code, § 667, subds. (b)-(i)). Under the plea bargain, the prosecution agreed to

dismiss the remaining counts and allegations in the complaint as well as dismiss a separate case. The plea bargain called for a stipulated five-year prison term.

The trial court sentenced Stewart to five years in prison and imposed a \$1,000 restitution fine.

The trial court granted Stewart's request for a certificate of probable cause.

FACTS

On March 25, 2008, San Diego police officers conducted a buy/bust operation near the 900 block of Park Boulevard. An undercover officer contacted codefendant Charlotte Wilderson and told her that he wanted to buy \$40 worth of cocaine. Wilderson replied she had a friend who could accommodate her. The undercover officer handed Wilderson two prerecorded \$20 bills. Wilderson and the officer walked to the Peach Tree Hotel, where they contacted Stewart outside. After Stewart was told they wanted to buy rock cocaine, he went to his room inside the hotel and returned a few minutes later. The three of them and another codefendant walked to the post office on E Street, where Wilderson gave the officer's two prerecorded \$20 bills to Stewart in exchange for .41 grams of cocaine base. Wilderson gave the cocaine to the officer, who then gave the prearranged bust signal to other officers. Police searched Stewart and found, among other things, 3.76 grams of cocaine base.

DISCUSSION

Appointed appellate counsel has filed a brief setting forth evidence in the superior court. Counsel presents no argument for reversal, but asks that this court review the record for error as mandated by *People v. Wende* (1979) 25 Cal.3d 436. Pursuant to

Anders v. California (1967) 386 U.S. 738, counsel refers to as a possible, but not arguable issue: whether the record supports Stewart's claims on his request for a certificate of probable cause.

We granted Stewart permission to file a brief on his own behalf. He has not responded.

A review of the record pursuant to *People v. Wende, supra*, 25 Cal.3d 436 and *Anders v. California, supra*, 386 U.S. 738, including the possible issue referred to by appellate counsel, has disclosed no reasonably arguable appellate issue. Competent counsel has represented Stewart on this appeal.

DISPOSITION

The judgment is affirmed.

McCONNELL, P. J.

WE CONCUR:

BENKE, J.

McDONALD, J.